

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

LORI FITZGERALD, *et al.*, individually and on  
behalf of others similarly situated,

Plaintiffs,

v.

JOSEPH WILDCAT SR., *et al.*,

Defendants.

Case No. 3:20-cv-00044 (NKM)

**CONSENT MOTION FOR LEAVE TO PROVIDE NOTICE TO 21,533  
CLASS MEMBERS AND TO EXTEND THEIR DEADLINES**

Plaintiffs, *on behalf of themselves and all individuals similarly situated*, submit this Motion for Leave to Provide Notice to 21,533 Class Members and to Extend Their Deadlines. In support thereof, Plaintiffs state as follows:

1. On July 17, 2024, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement. *See generally* ECF 181.
2. On August 1, 2024, this Court granted the Motion for Preliminary Approval of Class Settlement and entered a Preliminary Approval Order. *See generally* ECF 187.
3. The Court's Preliminary Approval Order provides that the Settlement Administrator shall provided notice to the class members in accordance with the Settlement Agreement. ECF 187 at ¶ 8.
4. The Settlement Agreement, in turn, requires the Settlement Administrator to provide the class notice within 30 days following the entry of the Preliminary Approval Order. *See* Settlement Agreement (ECF 182-1 at § 5.3).

5. The Settlement Administrator complied with the terms of the Court's Preliminary Approval Order and began sending notice on August 21, 2024.

6. However, it was recently discovered that a total number of 21,533 consumers did not receive a class notice because their loan level details were inadvertently omitted from the data provided by the Tribal Officials to the Settlement Administrator. *See* Settlement Agreement (ECF 182-1 at § 3.3) (establishing the requirements from the loan-level details to be provided to the Settlement Administrator).<sup>1</sup>

7. To rectify this, the parties seek leave from this Court to: (1) provide notice to the 21,533 consumers did not receive a class notice; and (2) extend their deadlines to November 27, 2024, to either exclude themselves or object to the settlement.

8. An opt-out or objection period of 30 days provides sufficient time for these class members to make a decision about the settlement and satisfies due process. *Garrett v. SCVRH LLC*, 2023 WL 2354581, at \*4 (D. Ariz. Mar. 3, 2023) (establishing the “deadline for opt-out forms will be set for thirty (30) days from the mailing of the Notice.”); *Byrne v. Santa Barbara Hosp. Servs., Inc.*, 2018 WL 11344869, at \*1 (C.D. Cal. Sept. 18, 2018) (“Class members will have a 30-day window in which they may submit their claim form via email or first class mail, opt out, or object.”); *Razmyar v. Bombay Club, Inc.*, 2016 WL 4249757, at \*2 (D.D.C. Feb. 26, 2016) (“Any such Opt-Out Request must be postmarked, faxed or email no later than thirty (30) days after the date the Notice is mailed by Defendants.”).

---

<sup>1</sup> Although the file for these borrowers were inadvertently not transferred to the Settlement Administrator, the collection activity for these accounts was ceased in accordance with Settlement Agreement and Preliminary Approval Order. *See* Settlement Agreement (ECF 182-1 at § 3.4(a)(ii)).

9. Furthermore, no one in the class will be prejudiced because the Tribal Officials have agreed to pay the cost of notice and administration to provide this notice to the 21,533 consumers.

10. The requested extension is only for these 21,533 consumers and shall not otherwise extend the deadlines for any class members who previously received notice.

11. For the reasons explained above, the Plaintiffs request the Court to enter the Proposed Order attached hereto as *Exhibit 1*, which: (1) directs the Settlement Administrator to provide notice to the 21,533 consumers; and (2) extend their deadlines to November 27, 2024, to either exclude themselves or object to the settlement.

Respectfully submitted,  
**PLAINTIFFS**, *individually and on behalf of all  
others similarly situated*

By: /s/ Kristi C. Kelly  
Kristi Cahoon Kelly, VSB #72791  
Andrew J. Guzzo, VSB #82170  
Matthew G. Rosendahl, VSB #93738  
**KELLY GUZZO PLC**  
3925 Chain Bridge Road, Suite 202  
Fairfax, Virginia 22030  
Telephone: (703) 424-7572  
Facsimile: (703) 591-0167  
Email: [kkelly@kellyguzzo.com](mailto:kkelly@kellyguzzo.com)  
Email: [aguzzo@kellyguzzo.com](mailto:aguzzo@kellyguzzo.com)  
Email: [matt@kellyguzzo.com](mailto:matt@kellyguzzo.com)  
*Counsel for Plaintiffs*